UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:
Montrose Chemical Corp.
City and County of Los Angeles, California

JCI Jones Chemicals, Inc.,

Respondent

ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT FOR REMEDIAL INVESTIGATION/FEASIBILITY STUDY

U.S. EPA Region IX
CERCLA Docket No. 2008-23

Proceeding under Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9604, 9607 and 9622.

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ADMINISTRATIVE SETTLEMENT AGREEMENT AND ORDER ON CONSENT
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I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement and Order on Consent ("Settlement Agreement") is entered into voluntarily by the United States Environmental Protection Agency ("EPA") and JCI Jones Chemicals, Inc. ("Respondent" or "Jones"). The Settlement Agreement concerns the preparation and performance of a remedial investigation and feasibility study ("RI/FS") at 1401 West Del Amo Boulevard, in Los Angeles County, California ("Jones Plant Property"), as well as nearby areas at which contaminants may have come to be located as a result of Jones' operations at the Jones Plant Property. The Jones Plant Property is a portion of the Montrose Chemical Corporation Superfund Site ("Montrose Superfund Site"). The Settlement Agreement also concerns reimbursement for Interim and Future Response Costs incurred by EPA in connection with the RI/FS.

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9604, 9607 and 9622 ("CERCLA"). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (Jan. 29, 1987), and further delegated to Regional Administrators on May 11, 1994, by EPA Delegation Nos. 14-14-C and 14-14-D. This authority was further redelegated by the Regional Administrator of EPA Region IX to the Superfund Branch Chief by Regional Delegations R9-1290.15 and R9-1290.20 (both dated September 29, 1997).

3. EPA and Respondent recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by Respondent in accordance with this Settlement Agreement do not constitute an admission of any liability. Respondent does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of fact, conclusions of law and determinations in Sections V and VI of this Settlement Agreement. Respondent agrees to comply with and be bound by the terms of this Settlement Agreement and further agrees that it will not contest the basis or validity of this Settlement Agreement or its terms.

II. PARTIES BOUND

4. This Settlement Agreement applies to and is binding upon EPA and upon Respondent and its successors and assigns. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Settlement Agreement.

5. Respondent shall ensure that its contractors, subcontractors, and representatives receive a copy of this Settlement Agreement and comply with this Settlement Agreement. Respondent shall be responsible for any noncompliance with this Settlement Agreement.

6. Each undersigned representative of Respondent certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to execute and legally bind Respondent to this Settlement Agreement.

III. STATEMENT OF PURPOSE

7. In entering into this Settlement Agreement, the objectives of EPA and Respondent are: (a) to determine the nature and extent of contamination and any threat to the public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants or contaminants at or from the Jones Plant Property, by conducting a Remedial Investigation as more specifically set forth in the Statement of Work ("SOW") attached as Appendix A to this Settlement Agreement; (b) to identify and evaluate remedial alternatives to prevent, mitigate or otherwise respond to or remedy any release or threatened release of hazardous substances, pollutants, or contaminants at or from the Jones Plant Property, by contributing information to the Feasibility Study that Montrose is conducting, as more specifically set forth in Section IX (Work To Be Performed) and in the SOW; and (c) to recover interim and future response and oversight costs incurred by EPA with respect to this Settlement Agreement.

8. The Work conducted under this Settlement Agreement is subject to approval by EPA and shall provide all appropriate and necessary information to assess conditions at the Jones Plant Property and evaluate alternatives to the extent necessary to select a remedy that will be consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300 ("NCP"). Respondent shall conduct all Work under this Settlement Agreement in compliance with CERCLA, the NCP, and all applicable EPA guidances, policies, and procedures.

IV. DEFINITIONS

9. Unless otherwise expressly provided herein, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675.

b. "Day" shall mean a calendar day, except where otherwise specified. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

c. "Effective Date" shall be the effective date of this Settlement Agreement as provided in Section XXIX.

d. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

e. "Future Response Costs" shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs from the Effective Date in reviewing or developing plans, reports and other items pursuant to this Settlement Agreement, verifying the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Paragraph 60 (costs and attorneys fees and any monies paid to secure access, including the amount of just compensation), Paragraph 47 (emergency response), and Paragraph 88 (work takeover).

f. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

g. "Interim Response Costs" shall mean all costs, including direct and indirect costs, (a) paid by the United States in connection with the Jones Plant Property between January 1, 2008 and the Effective Date, or (b) incurred prior to the Effective Date, but paid after that date.

h. "Jones" shall mean JCI Jones Chemicals, Inc.

i. "Jones Plant Property" shall mean the portion of the Montrose Superfund Site located at 1401 West Del Amo Boulevard, in the County of Los Angeles, California, on which Jones owns and operates an industrial chemical supply facility. The Jones Plant Property is adjacent to the Montrose Plant Property and to the City of Torrance, California, and is depicted generally on the map attached as Appendix B.

j. "mg/kg" shall mean "milligrams per kilogram."

k. "Montrose" shall mean the Montrose Chemical Corporation of California.

l. "Montrose Plant Property" shall mean the portion of the Montrose Superfund Site located at 20201 S. Normandie Avenue, in the County of Los Angeles, California, at which the Montrose Chemical Company operated a pesticide manufacturing plant.

m. "Montrose Superfund Site" is the Montrose Chemical Corporation Superfund Site, located in the County of Los Angeles, California, encompassing the Montrose Plant Property, the Jones Plant Property, and other areas.

n. "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

o. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral. References to paragraphs in the SOW will be so identified (for example, "SOW paragraph 15").

p. "Parties" shall mean EPA and Respondent.

q. "ppm" shall mean "parts per million," a measure of concentration typically used in reporting contaminant concentrations in soil but also in other media. 1 ppm is equal to 1000 ppb.

r. "ppb" shall mean "parts per billion," a measure of concentration typically used in reporting contaminant concentrations in groundwater, but also in other media.

s. "ppmv" shall mean parts per million vapor by volume, a measure of the concentration of contaminant vapor.

t. "RCRA" shall mean the Resource Conservation and Recovery Act, also known as the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.*

u. "Respondent" shall mean JCI Jones Chemicals, Inc.

v. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral. References to sections in the SOW will be so identified (for example, "SOW Section V").

w. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent, the SOW, all appendices attached hereto (listed in Section XXVII) and all documents incorporated by reference into this document including without limitation EPA-approved submissions. EPA-approved submissions (other than progress reports) are incorporated into and become a part of the Settlement Agreement upon approval by EPA. In the event of conflict between this Settlement Agreement and any appendix or other incorporated documents, this Settlement Agreement shall control.

x. "State" shall mean the state of California.

y. "Statement of Work" or "SOW" shall mean the Statement of Work for development of a RI/FS for the Jones Plant Property, as set forth in Appendix A to this Settlement Agreement. The Statement of Work is incorporated into this Settlement Agreement and is an enforceable part of this Settlement Agreement as are any modifications made thereto in accordance with this Settlement Agreement.

z. "Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); (4) any "hazardous material" under California Health and Safety Code Section 25117; or (5) any "hazardous substance" under California Health and Safety Code Section 25316.

aa. "Work" shall mean all activities Respondent is required to perform under this Settlement Agreement, except those required by Section XIV (Retention of Records).

V. FINDINGS OF FACT

10. This Settlement Agreement specifically addresses the Jones Plant Property and other portions of the Montrose Superfund Site to which contaminants have come to be located as a result of operations at the Jones Plant Property. The Jones Plant Property is owned by Respondent. The Jones Plant Property is immediately adjacent to, and southwest of, the Montrose Plant Property. These properties are situated between the Cities of Torrance and Carson in the Harbor Gateway, a narrow half-mile-wide strip of land extending southward from Los Angeles proper to the Los Angeles Harbor. More specifically, the properties lie on the west side of Normandie Avenue between Del Amo Boulevard on the south and Francisco Street (extended) on the north.

11. Approximately 3,000 people live or work within a quarter-mile of the properties. The closest drinking water well is located 1.5 miles to the southwest and draws water from the two deepest aquifers. The Del Amo Superfund Site is located adjacent to the Montrose Plant Property, across Normandie Avenue, and groundwater contamination from the Montrose Superfund Site and Del Amo Superfund Site has merged.

12. The Montrose Superfund Site was listed on the CERCLA National Priorities List ("NPL") pursuant to CERCLA Section 105, 42 U.S.C. § 9605, on October 4, 1989, 54 Fed. Reg. 41015.

13. Prior to 1968, the Jones Plant Property and the Montrose Plant Property were owned jointly by Stauffer Chemical Company, Inc. ("Stauffer"). Stauffer and its parents and successors have been partial owners of Montrose Chemical Corporation of California from the 1940s to the present. Prior to 1955, Stauffer operated an acid manufacturing plant on what came to be the Jones Plant Property. In 1955, Jones leased the Jones Plant Property from Stauffer and began operating an industrial chemical supply facility there. In 1968, Jones purchased the Jones Plant Property from Stauffer and continued its operations.

14. Operations at the Jones Plant Property have included repackaging of liquid chlorine; repackaging of chlorinated solvents, manufacturing and packaging of sodium hypochlorite; and the repackaging, warehousing, and distribution of inorganic chemicals used primarily in the waste and wastewater treatment industry. At the Montrose Plant Property, Montrose manufactured, ground, packaged, and distributed the pesticide

dichlorodiphenyl-trichloroethane ("DDT") from 1947 until the summer of 1982. The Montrose Plant Property was also used for storing chemical raw materials, DDT, and waste products. Montrose ceased operations and disassembled its plant in 1982, and paved most of the Montrose Plant Property with asphalt in 1985. The Montrose plant released hazardous substances, including but not limited to DDT, chlorobenzene, parachlorobenzene sulfonic acid ("pCBSA"), and chloroform into the environment. Contamination from the Montrose plant has been found in surface soils, deep soils, groundwater, storm drains, surface water drainages, residential soils, the Los Angeles Harbor, and the Pacific Ocean.

15. Jones discharged runoff which may have contained chlorinated solvents, including but not limited to trichloroethylene ("TCE") and perchloroethylene ("PCE"), to a dry well on the Jones Plant Property. There are also sumps at various locations on the Jones Plant Property that collected rainwater but also could have received solvent-containing wastes and runoff. Jones historically stored TCE and PCE on its property in bulk, packaged TCE and PCE in drums, and sold TCE and PCE for a number of years. Jones also operated a drum washing facility, which was a likely source of chlorinated aliphatic solvents released to the subsurface. The Jones Plant Property also has several aboveground storage tanks that have stored various chemicals, including TCE and PCE.

16. In 1994-1995, Jones conducted soil gas, groundwater, and soil sampling at the Jones Plant Property and reported the results in a Preliminary Endangerment Assessment to the California Department of Toxic Substances Control. Samples were collected at varying depths. The sampling confirmed that the Jones Plant Property is contaminated by chlorinated solvents, including but not limited to TCE, PCE, and trichloroethane ("TCA"). Soil gas concentrations were as high as 1400 ppmv for TCE, 4200 ppmv for PCE, and 2200 ppmv for TCA.

17. Groundwater concentrations under the Jones Plant Property were as high as 3,200 ppb for TCE and 5,300 ppb for PCE in 1994-1995. Under state and federal law, the maximum allowable level of these solvents in drinking water is 5 ppb. In the course of its investigation of groundwater between 1984 and the present, Montrose has installed groundwater monitoring wells downgradient from the Jones Plant Property, which have been shown to contain TCE, PCE and TCA. TCE has recently been measured at 1,400 ppb in water table well MW-6 and at 270 ppb in water table well MW-16. Water table wells MW-03 and MW-4, and BL-13A, upgradient of the Jones Plant Property, have been shown to contain TCE at levels of 39, 170, and 18 ppb respectively. In the Middle Bellflower C Sand, which underlies the water table unit, there are no wells on the Jones Plant Property or immediately downgradient of the Jones Plant Property. Wells BF-01 and BF-34, upgradient of the Jones Plant Property, have been shown to contain TCE at levels of 2 and 2100 ppb.

18. Lead was found in some soil samples at the Jones Plant Property at concentrations as high as approximately 4,000 mg/kg. This is at least 5 times EPA's industrial risk-based screening levels for lead. Benzene hexachloride ("BHC") has also been found in surface soils at the Jones Plant Property. Additionally, in 1995, DDT was

found in soils at the Jones Plant Property in varying concentrations up to 800 ppm. Information available to EPA indicates that the DDT found in surface soils at the Jones Plant Property resulted from the operations at the former Montrose plant to the north of the Jones Plant Property, and possibly from operations by Stauffer which were previously located on the Jones Plant Property. Montrose Chemical Corporation operated a DDT manufacturing plant north of the Jones Plant Property from 1947 until 1982. Stauffer Chemical Company, which owned Montrose Chemical Corporation during its operations at the Montrose Plant Property, also operated a facility related to pesticide manufacturing on the Jones Plant Property prior to Jones' presence there. Montrose has conducted more recent sampling of soils on the Jones Plant Property but the data from that effort are not yet available.

19. Contamination in the groundwater at the Montrose Superfund Site exceeds drinking water maximum contaminant levels for a number of hazardous substances, including, but not limited to, chlorobenzene, benzene, ethylbenzene, chloroform, and TCE. Human health excess cancer risks from consumption of contaminated groundwater at the Montrose Superfund Site are many thousands of times greater than the risk-based screening levels for these contaminants, especially when their potential toxic effects are considered together. While contaminated groundwater at the Montrose Superfund Site is not currently being used, the State has classified the groundwater at the Montrose Superfund Site as a potential source of drinking water. Remedial action is necessary to prevent contamination in soils from continuing to migrate into groundwater aquifers and to prevent it from reaching drinking water wells. Without further action, soil contamination at the Montrose Superfund Site may become a long-term health threat to persons living nearby.

20. In 1983, EPA issued an Administrative Order requiring Montrose to cease discharging DDT and to initiate a study to determine the nature and extent of contamination. In 1985, EPA and Montrose signed an administrative order on consent ("1985 AOC") requiring Montrose to perform an RI/FS for the Montrose Superfund Site. The 1985 AOC was amended in 1987 and again in 1989. Montrose is continuing to work on completing the FS for soils and dense non-aqueous phase liquid ("DNAPL"); the final FS report(s) will address both the Montrose Plant Property and immediately adjacent properties where soils are contaminated, including the Jones Plant Property. EPA also issued a Record of Decision ("ROD") for the Dual Site Groundwater Operable Unit, Montrose and Del Amo Superfund Sites, on March 30, 1999. The ROD selected remedial actions to address potential human exposures to contaminated groundwater at the Sites, and to restore groundwater in the area.

21. The groundwater remedy selected in the 1999 ROD requires that contaminants be indefinitely contained within a zone defined as a "containment zone" and that outside the containment zone groundwater be restored to drinking water standards. Should the contamination presently within the containment zone leave the zone, it could cause a breach of the ROD provisions requiring containment. Should the contamination presently outside the containment zone not respond to groundwater treatment, it could

prevent restoration of the groundwater to drinking water standards and therefore lead to a failure of the remedy to attain the ROD cleanup standards.

22. Solvents in the form of DNAPL at the Jones Plant Property, should they be present, could serve as a continuous and long-term source of dissolved contamination in groundwater. In addition, solvent contaminants in soil vapor at the Jones Plant Property, including but not limited to TCE and PCE, could migrate into air at the surface and/or collect in buildings. TCE and PCE in breathable air could present a short- or long-term health risk to persons at the ground surface. Toxicity studies have shown that TCE and PCE can cause several types of health effects to persons exposed to these hazardous substances, including cancers and central nervous system toxicity. Additionally, DDT and lead in surface soils at the Jones Plant Property could pose a health risk to workers or others who are in contact with surface soils. EPA considers DDT to be a carcinogen and potential endocrine disrupter. Lead has been shown to cause toxicity to the central nervous system, especially in children.

23. Jones is a corporation organized under the laws of New York.

VI. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, EPA has determined that:

24. The Jones Plant Property is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

25. The contamination found at the Montrose Superfund Site, including the Jones Plant Property, as identified in the Findings of Fact above, includes "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14) and/or constitutes "any pollutant or contaminant" that may present an imminent and substantial danger to public health or welfare under Section 104(a)(1) of CERCLA.

26. The conditions described in the Findings of Fact above constitute an actual and/or threatened "release" of a hazardous substance from the facility as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

27. The Respondent is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

28. The Respondent is a responsible party under Sections 104, 107 and 122 of CERCLA, 42 U.S.C. §§ 9604, 9607 and 9622. The Respondent is the "owner" and "operator" of the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1). The Respondent also was the "owner" and "operator" of the facility at the time of disposal of hazardous substances at the facility, as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20), and within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

29. The actions required by this Settlement Agreement are necessary to protect the public health, welfare or the environment, are in the public interest, 42 U.S.C. § 9622(a), are consistent with CERCLA and the NCP, 42 U.S.C. §§ 9604(a)(1), 9622(a), and will expedite effective remedial action and minimize litigation, 42 U.S.C. § 9622(a).

30. EPA has determined that Respondent is qualified to conduct the RI/FS within the meaning of Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), and will carry out the Work properly and promptly, in accordance with Sections 104(a) and 122(a) of CERCLA, 42 U.S.C. §§ 9604(a) and 9622(a), if Respondent complies with the terms of this Settlement Agreement.

VII. SETTLEMENT AGREEMENT AND ORDER

31. Based upon the foregoing Findings of Fact and Conclusions of Law and Determinations, it is hereby Ordered and Agreed that Respondent shall comply with all provisions of this Settlement Agreement, including, but not limited to, all appendices to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

VIII. DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS

32. Selection of Contractors, Personnel. All Work performed under this Settlement Agreement shall be under the direction and supervision of qualified personnel. Within 30 days of the Effective Date of this Settlement Agreement, and before the Work outlined below begins, Respondent shall notify EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants and laboratories to be used in carrying out such Work. With respect to any proposed contractor, Respondent shall demonstrate that the proposed contractor has a quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995, or most recent version), by submitting a copy of the proposed contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001 or subsequently issued guidance) or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for Respondent shall be subject to EPA's review, for verification that such persons meet minimum technical background and experience requirements. Respondent proposes to use personnel employed by LFR Inc., including Charles E. Robinson, P.E. and Melissa Schuetz, R.E.A., to carry out the Work, and EPA has determined that these persons meet minimum technical background and experience requirements and are approved to carry out the Work. This Settlement Agreement is contingent on Respondent's demonstration to EPA's satisfaction that Respondent is qualified to perform properly and promptly the actions set forth in this Settlement Agreement. If EPA disapproves in writing of any person's technical qualifications, Respondent shall notify EPA of the identity and qualifications of the replacements within 30 days of the written notice. If EPA subsequently disapproves of the replacement, EPA reserves the right to terminate this Settlement Agreement and to conduct a complete

RI/FS, and to seek reimbursement for costs and penalties from Respondent. During the course of the RI/FS, Respondent shall notify EPA in writing of any changes or additions in the personnel used to carry out such Work, providing their names, titles, and qualifications. EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.

33. Respondent has designated Timothy J. Gaffney, its Executive Vice President, as Project Coordinator who shall be responsible for administration of all actions by Respondent required by this Settlement Agreement and EPA has approved Mr. Gaffney as the Project Coordinator. To the greatest extent possible, the Project Coordinator shall be present on Jones Plant Property or readily available during Jones Plant Property Work. Respondent shall have the right to change its Project Coordinator, subject to EPA's right to disapprove. Respondent shall notify EPA 15 days before such a change is made, unless a shorter time is approved by EPA. If EPA disapproves of the designated replacement Project Coordinator, Respondent shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number and qualifications within 7 days following EPA's disapproval. Receipt by Respondent's Project Coordinator of any notice or communication from EPA relating to this Settlement Agreement shall constitute receipt by Respondent.

34. EPA has designated Jeffrey Dhont and Russell Mechem of the Superfund Site Cleanup Branch, Region 9 as its Project Coordinators. Mr. Dhont and Mr. Mechem will share coordination of the project according to an internal division of labor determined by EPA. Unless otherwise approved by EPA, Respondent shall submit all documents and correspondence required by or pertaining to this Settlement Agreement to both project coordinators. EPA will notify Respondent of a change of its designated Project Coordinators. Except as otherwise provided in this Settlement Agreement, Respondent shall direct all submissions required by this Settlement Agreement to the Project Coordinators at 75 Hawthorne St. (SFD-7-1), San Francisco, California, 94105.

35. Each of EPA's Project Coordinators shall have the authority lawfully vested in a Remedial Project Manager ("RPM") and On-Scene Coordinator ("OSC") by the NCP. In addition, each of EPA's Project Coordinators shall have the authority consistent with the NCP, to halt any Work required by this Settlement Agreement, and to take any necessary response action when s/he determines that conditions at the Jones Plant Property may present an immediate endangerment to public health or welfare or the environment. The absence of the EPA Project Coordinators from the area under study pursuant to this Settlement Agreement shall not be cause for the stoppage or delay of Work.

36. EPA shall arrange for a qualified person to assist in its oversight and review of the conduct of the RI/FS, as required by Section 104(a) of CERCLA, 42 U.S.C. Section 9604(a). Such person shall have the authority to observe Work and make inquiries in the absence of EPA, but not to modify the RI/FS Work Plan.

IX. WORK TO BE PERFORMED

37. Respondent shall conduct the RI/FS in accordance with the provisions of this Settlement Agreement, the SOW, CERCLA, the NCP and EPA guidance, including, but not limited to the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive # 9355.3-01, October 1988 or subsequently issued guidance), "Guidance for Data Useability in Risk Assessment" (OSWER Directive #9285.7-05, October 1990 or subsequently issued guidance), and guidance referenced therein, and guidances referenced in the SOW, as may be amended or modified by EPA. The RI shall consist of collecting data to characterize conditions at the Jones Plant Property, determining the nature and extent of the contamination at or from the Jones Plant Property (including areas outside the Jones Plant Property at which contaminants have come to be located as a result of operations at the Jones Plant Property), assessing risk to human health and the environment and conducting treatability testing as necessary to evaluate the potential performance and cost of the treatment technologies that are being considered. The Respondent shall contribute data and information concerning the Jones Plant Property to the FS for the entire Montrose Superfund Site that Montrose is already required to perform under its 1985 AOC with EPA. Upon request by EPA, Respondent shall submit in electronic form all portions of any plan, report or other deliverable Respondent is required to submit pursuant to provisions of this Settlement Agreement.

38. The attached SOW describes in detail the work to be performed by Respondent under this Settlement Agreement, and provides requirements and timeframes for the execution for the Work. Failure by Respondent to perform the work in accordance with the SOW shall be deemed a violation of this Settlement Agreement, and EPA may impose and collect stipulated penalties from Respondent as set forth in this Settlement Agreement.

39. Prior to entering into this Settlement Agreement, Respondent provided to EPA the following planning documents:

- *Draft Quality Assurance Project Plan*, September 20, 2005, by LFR Levine Fricke on behalf of Jones;
- *Draft Supplemental Dense Nonaqueous Phase Liquid Reconnaissance Field Sampling Plan*, October 15, 2004, by LFR Levine Fricke on behalf of Jones and *Revised Draft Supplemental Dense Nonaqueous Phase Liquid Reconnaissance Field Sampling Plan,* December 13, 2004 by LFR Levine Fricke on behalf of Jones;
- *Draft Soil-Gas Survey Workplan*, September 30, 2004, by LFR Levine Fricke on behalf of Jones; and
- *Health and Safety Plan for Site Investigation Activities at JCI Jones Chemicals, Inc.,* December 3, 2004 by LFR Levine Fricke on behalf of Jones.

These draft documents were prepared by Respondent, in consultation with and based on comments from EPA, for sampling work to be conducted by Respondent at the Jones Plant Property. This envisioned sampling is part of the work now being required of Respondent pursuant to this Settlement Agreement. In accordance with this Settlement Agreement and the attached SOW, EPA may determine that additional sampling work is necessary to satisfactorily complete the Work required by this Settlement Agreement. If EPA makes such a determination, Respondent agrees to perform the additional work as required by EPA.

40. By letter dated April 8, 2008, EPA provided comments on the documents previously submitted by Jones as listed in the preceding Paragraph. EPA and Respondent agree that the draft documents listed in the preceding Paragraph will serve as a starting point toward completion of the Work to be performed under this Settlement Agreement. The documents are considered to have been submitted by Respondent for EPA review and action pursuant to Section X of this Settlement Agreement.

41. Cooperation and Participation. Respondent shall cooperate and use best efforts to coordinate the performance of all work required to be performed under this Settlement Agreement with all other work being performed at the Montrose Superfund Site and Jones Plant Property, including work performed by EPA, the State, or any other party performing work at the Montrose Superfund Site or Jones Plant Property with the approval of EPA. Specifically, the Respondent shall provide all data and analysis that is collected and performed under this Settlement Agreement to Montrose in a timely manner, and EPA shall request Montrose to similarly provide its data to Respondent. This exchange of information shall take place in a manner and timeframe that will assist Montrose in developing the FS that it is required to produce under the 1985 AOC.

42. The parties anticipate that, in accordance with the preceding Paragraph, Montrose will incorporate into its FS the information developed and provided by Respondent in the course of performing the Work required by this Settlement Agreement. If EPA or Respondent determines that progress toward remedy selection for the Montrose Chemical Superfund Site would be better served if Respondent were to produce FS documentation separate from the FS that Montrose is preparing, EPA may require Respondent in writing to prepare either a supplement to the FS produced by Montrose, or a stand-alone FS for the Jones Plant Property and nearby areas at which contaminants may have come to be located as a result of Jones' operations at the Jones Plant Property. In this event, EPA may modify the SOW to require Respondent to submit such a document without amending this Settlement Agreement. Any resulting modifications to the SOW will be incorporated into this Settlement Agreement. The alternatives evaluated in the FS must include, but shall not be limited to, the range of alternatives described in the NCP, and shall include remedial actions that utilize permanent solutions and alternative treatment technologies or resource recovery technologies to the maximum extent practicable. If EPA requires Respondent to prepare either a supplement to the FS produced by Montrose or a stand-alone FS for the Jones Plant Property, Respondent shall, in evaluating the FS alternatives, address the factors required to be taken into

account by Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430(e) of the NCP, 40 C.F.R. § 300.430(e).

43. Modification of the Plans.

a. If at any time during the RI/FS process, Respondent identifies a need for additional data, Respondent shall submit a memorandum documenting the need for additional data to the EPA Project Coordinator within 20 days of identification, or within a longer time as approved by EPA at its sole discretion at the time of EPA's receipt of Respondent's request. EPA in its discretion will determine whether the additional data will be collected by Respondent and whether it will be incorporated into plans, reports and other deliverables. Nothing in this Paragraph shall be interpreted to prohibit Respondent from taking additional samples or gathering additional information on its property beyond what is required by work plans approved by EPA under this Agreement; however, Respondent shall notify EPA of any such work prior to its implementation, and shall comply with Paragraphs 50, 56, 57, 63, 64, and 65 with respect to all such activities. Respondent shall not conduct any additional sampling or information gathering that could interfere with or compromise results from field work or other activities being conducted pursuant to this Settlement Agreement. Respondent understands that it takes the risk that any samples taken or information obtained without EPA's review and approval will not be approved or accepted by EPA as satisfying the work required of Respondent pursuant to this Settlement Agreement. Respondent agrees to re-perform work it conducted without EPA's review and approval in part or in its entirety, if required by EPA, in a manner consistent with this Settlement Agreement.

b. In the event of unanticipated or changed circumstances at the Jones Plant Property, Respondent shall notify the EPA Project Coordinator by telephone within 24 hours of discovery of the unanticipated or changed circumstances. In the event that EPA determines that the immediate threat or the unanticipated or changed circumstances warrant changes in the plans, reports and other deliverables, EPA shall modify or amend the appropriate documents in writing accordingly. Respondent shall perform the tasks required by the deliverables as modified or amended.

c. EPA may determine that in addition to tasks defined in the initially approved plans, additional Work may be necessary to accomplish the objectives of the RI/FS. Respondent agrees to perform these response actions in addition to those required by the initially approved plans, including any approved modifications, if EPA determines that such actions are necessary for a complete RI/FS.

d. Respondent shall confirm its willingness to perform the additional Work in writing to EPA within 10 business days of receipt of the EPA request. If Respondent objects to any modification determined by EPA to be necessary pursuant to this Paragraph, Respondent may seek dispute resolution pursuant to Section XV (Dispute Resolution). The SOW and/or plans shall be modified in accordance with the final resolution of the dispute.

e. Respondent shall complete the additional Work according to the standards, specifications, and schedule set forth or approved by EPA in a written modification to the plans or written plan supplement. EPA reserves the right to conduct the Work itself at any point, to seek reimbursement from Respondent, and/or to seek any other appropriate relief.

f. Nothing in this Paragraph shall be construed to limit EPA's authority to require performance of further response actions at the Jones Plant Property or Montrose Superfund Site.

44. Off-Site Shipment of Waste Material. Respondent shall, prior to any off-site shipment of Waste Material from the Jones Plant Property to an out-of-state waste management facility in connection with the Work performed under this Settlement Agreement, provide written notification of such shipment of Waste Material to the appropriate state environmental official in the receiving facility's state and to EPA's designated Project Coordinator. However, this notification requirement shall not apply to any off-site shipments when the total volume of all such shipments during any three-month period will not exceed 10 cubic yards.

a. Respondent shall include in the written notification the following information: (1) the name and location of the facility to which the Waste Material is to be shipped; (2) the type and quantity of the Waste Material to be shipped; (3) the expected schedule for the shipment of the Waste Material; and (4) the method of transportation. Respondent shall notify the state in which the planned receiving facility is located of major changes in the shipment plan, such as a decision to ship the Waste Material to another facility within the same state, or to a facility in another state.

b. The identity of the receiving facility and state will be determined by Respondent. Respondent shall provide the information required by Subparagraph 44.a and 44.c as soon as practicable after the award of the contract and before the Waste Material is actually shipped.

c. Before shipping any hazardous substances, pollutants, or contaminants from the Jones Plant Property to an off-site location in connection with the Work performed under this Settlement Agreement, Respondent shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondent shall only send hazardous substances, pollutants, or contaminants from the Jones Plant Property to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

45. Meetings. Respondent shall make presentations at, and participate in, meetings at the request of EPA during the initiation, conduct, and completion of the RI/FS. In addition to discussion of the technical aspects of the RI/FS, topics will include anticipated problems or new issues. Meetings will be scheduled at EPA's discretion, after a

reasonable attempt by EPA to coordinate a mutually convenient schedule with Respondent.

46. Progress Reports. In addition to the plans, reports and other deliverables set forth in this Settlement Agreement, Respondent shall provide to EPA monthly progress reports by the 15th day of the following month. At a minimum, with respect to the preceding month, these progress reports shall (1) describe the actions which have been taken to comply with this Settlement Agreement during that month, (2) include all results of sampling and tests and all other data received by Respondent, (3) describe Work planned for the next two months with schedules relating such Work to the overall project schedule for RI/FS completion, and (4) describe all problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays.

47. Emergency Response and Notification of Releases.

a. In the event of any action or occurrence during performance of the Work which causes or threatens a release of Waste Material from the Jones Plant Property that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, Respondent shall immediately take all appropriate action. Respondent shall take these actions in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondent shall also immediately notify the EPA Project Coordinator or, in the event of his/her unavailability, the EPA Section Chief, or the Regional Duty Officer, EPA Emergency Response Unit, Region 9, at (800) 300-2193, of the incident or conditions at the Jones Plant Property. In the event that Respondent fails to take appropriate response action as required by this Paragraph, and EPA takes such action instead, Respondent shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XVIII (Payment of Response Costs).

b. In addition, in the event of any release of a hazardous substance from the Jones Plant Property, Respondent shall immediately notify the EPA Project Coordinator, the Section Chief or Regional Duty Officer at (800) 300-2193 and the National Response Center at (800) 424-8802. Respondent shall submit a written report to EPA within 7 days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

X. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

48. After review of any plan, report or other item that is required to be submitted for approval pursuant to this Settlement Agreement, in a notice to Respondent EPA shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified

conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that Respondent modify the submission; or (e) any combination of the above. However, EPA shall not modify a submission without first providing Respondent at least one notice of deficiency and an opportunity to cure within 10 business days, or such longer time as may be requested by Jones and approved by EPA, except where to do so would cause serious disruption to the Work or where previous submission(s) have been disapproved due to material defects.

49. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Subparagraph 48(a), (b), (c) or (e), Respondent shall proceed to take any action required by the plan, report or other deliverable, as approved or modified by EPA subject only to its right to invoke the Dispute Resolution procedures set forth in Section XV (Dispute Resolution) with respect to the modifications or conditions made by EPA. Following EPA approval or modification of a submission or portion thereof, Respondent shall not thereafter alter or amend such submission or portion thereof unless directed by EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to Subparagraph 48(c) and the submission had a material defect, EPA retains the right to seek stipulated penalties, as provided in Section XVI (Stipulated Penalties).

50. Resubmission.

a. Upon receipt of a notice of disapproval, Respondent shall, within 10 business days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other deliverable for approval. Any stipulated penalties applicable to the submission, as provided in Section XVI, shall accrue during the 10-day period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 51 and 52.

b. Notwithstanding the receipt of a notice of disapproval, Respondent shall proceed to take any action required by any non-deficient portion of the submission, unless otherwise directed by EPA. Implementation of any non-deficient portion of a submission shall not relieve Respondent of any liability for stipulated penalties under Section XVI (Stipulated Penalties).

c. EPA reserves the right to stop Respondent from proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the RI/FS. Unless so notified by EPA, Respondent shall proceed with all tasks, activities and deliverables without awaiting EPA approval on any resubmitted deliverable.

51. If EPA disapproves a resubmitted plan, report or other deliverable, or portion thereof, EPA may again direct Respondent to correct the deficiencies. EPA shall also retain the right to modify or develop the plan, report or other deliverable. Respondent shall implement any such plan, report, or deliverable as corrected, modified or developed by EPA, subject only to Respondent's right to invoke the procedures set forth in Section XV (Dispute Resolution).

52. If upon resubmission, a plan, report, or other deliverable is disapproved or modified by EPA due to a material defect, Respondent shall be deemed to have failed to submit such plan, report, or other deliverable timely and adequately unless Respondent invokes the dispute resolution procedures in accordance with Section XV (Dispute Resolution) and EPA's action is revoked or substantially modified pursuant to a Dispute Resolution decision issued by EPA or superseded by an agreement reached pursuant to that Section. The provisions of Section XV (Dispute Resolution) and Section XVI (Stipulated Penalties) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution. If EPA's disapproval or modification is not otherwise revoked, substantially modified or superseded as a result of a decision or agreement reached pursuant to the Dispute Resolution process set forth in Section XV, stipulated penalties shall accrue for such violation from the date on which the initial submission was originally required, as provided in Section XVI. In the event that EPA takes over some of the tasks, but not the preparation of the RI Report or the FS Report, Respondent shall incorporate and integrate information supplied by EPA into the final reports.

53. All plans, reports, and other deliverables submitted to EPA under this Settlement Agreement shall, upon approval or modification by EPA, be incorporated into and enforceable under this Settlement Agreement. In the event EPA approves or modifies a portion of a plan, report, or other deliverable submitted to EPA under this Settlement Agreement, the approved or modified portion shall be incorporated into and enforceable under this Settlement Agreement. In a separate submittal, Respondent may submit into the record its own interpretation of any data and results contained in plans, reports, and other deliverables, as it may see fit.

54. Neither failure of EPA to expressly approve or disapprove of Respondent's submissions within a specified time period, nor the absence of comments, shall be construed as approval by EPA. Whether or not EPA gives express approval for Respondent's deliverables, Respondent is responsible for preparing deliverables acceptable to EPA.

XI. QUALITY ASSURANCE, SAMPLING, AND ACCESS TO INFORMATION

55. Quality Assurance. Respondent shall assure that Work performed, samples taken and analyses conducted conform to the requirements of the SOW. Respondent will assure that field personnel used by Respondent are properly trained in the use of field equipment and in chain of custody procedures. Respondent shall only use laboratories which have a documented quality system that complies with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA.

56. Sampling.

a. Unless EPA specifically states otherwise in writing, Respondent shall promptly provide to EPA without omission or redaction all data, results of sampling, data

analysis, measurements, tests, modeling, chain-of-custody records, quality assurance, quality control, data validation, laboratory documentation and data packages, records of communication, records of communication, field observations and recordings, documentation of field procedures or other information (including raw data) generated by Respondent, or on Respondent's behalf, during the period that this Settlement Agreement is effective. This requirement shall apply regardless of the purpose for which such data and information was collected. EPA will make available to Respondent validated data generated by EPA unless it is exempt from disclosure by any federal or state law or regulation. If Respondent plans to perform sampling other than that required by EPA-approved work plans during the period of this Settlement Agreement, Respondent shall provide to EPA notice of such planned data acquisition.

b. Respondent shall verbally notify EPA and the State at least 7 days prior to conducting any field work at the Jones Plant Property during the period that this Settlement Agreement is effective, or within such different period as may be approved by EPA. At EPA's verbal or written request, or the request of EPA's oversight assistant, Respondent shall allow split or duplicate samples to be taken by EPA (and its authorized representatives) or the State of any samples collected by Respondent or Respondent's representatives in implementing this Settlement Agreement. All split samples of Respondent shall be analyzed by the methods identified in the Quality Assurance Project Plan ("QAPP"), unless deviations from the QAPP are approved by EPA in writing.

c. Respondent shall maintain in its entirety all laboratory documentation for analyses conducted during the period this Settlement Agreement is effective, in accordance with the EPA Guidance Document, *Laboratory Documentation Required for Data Evaluation*. Respondent understands that failure to comply with this provision may result in Respondent having to repeat field work in the event that sufficient data documentation is not available for EPA to validate the data according to its standards and requirements.

57. Access to Information.

a. Upon EPA request, Respondent shall make promptly available to EPA without omission or redaction, copies of all documents and information within its possession or control or that of its contractors or agents relating to past or present activities at the Jones Plant Property or to the implementation of this Settlement Agreement, including, but not limited to, field data, results of sampling, analysis, measurements, tests, modeling, chain of custody records, quality assurance, quality control, data validation, laboratory documentation or data packages, records of communication, memoranda, field procedures, waste manifests, trucking logs, receipts, reports, research notes and documents, correspondence, or other relevant documents or information. If Respondent acquires or plans to acquire data or information otherwise pertinent to this paragraph but of which EPA is unaware, Respondent shall notify EPA of the existence of or planned acquisition of such data or acquisition of data. Respondent shall also make available to EPA and the State, for purposes of investigation, information

gathering, or testimony, its employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

b. For purposes of the preceding subparagraph, "field data" shall mean information associated with any environmental field work (including but not limited to soil, vapor, surface water, or groundwater sampling or gauging; borings; excavations; physical properties characterization; aerial photography; characterization of drum contents; characterization of waste materials; ground penetrating radar tests; and investigation activities associated with non-aqueous phase liquids) that may be conducted or obtained by Jones at the Jones Plant Property during the period that this Settlement Agreement is effective.

c. Respondent may assert business confidentiality claims covering part or all of the documents or information submitted to EPA and the State under this Settlement Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Documents or information determined to be confidential by EPA will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies documents or information when it is submitted to EPA and the State, or if EPA has notified Respondent that the documents or information are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such documents or information without further notice to Respondent. Respondent shall segregate and clearly identify all documents or information submitted under this Settlement Agreement for which Respondent asserts business confidentiality claims.

d. Respondent may assert that certain documents, records and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondent asserts such a privilege in lieu of providing documents, it shall provide EPA and the State with the following: 1) the title of the document, record, or information; 2) the date of the document, record, or information; 3) the name and title of the author of the document, record, or information; 4) the name and title of each addressee and recipient; 5) a description of the contents of the document, record, or information; and 6) the privilege asserted by Respondent. However, no documents, reports or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

e. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other documents or information evidencing conditions at or around the Jones Plant Property.

58. In entering into this Settlement Agreement, Respondent waives any objections to any data gathered, generated, or evaluated by EPA, the State or Respondent in the performance or oversight of the Work that has been verified according to the quality assurance/quality control ("QA/QC") procedures required by the Settlement Agreement or any EPA-approved RI/FS Work Plans or Sampling and Analysis Plans. If Respondent

objects to any other data relating to the RI/FS, Respondent shall submit to EPA a report that specifically identifies and explains its objections, describes the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to EPA within 15 days of the monthly progress report containing the data.

XII. SITE ACCESS

59. If the Jones Plant Property, or any other property where access is needed to implement this Settlement Agreement, is owned or controlled by Respondent, Respondent shall, commencing on the Effective Date, provide EPA, the State, and their representatives, including contractors, with access at all reasonable times to the Jones Plant Property, or such other property, for the purpose of conducting any activity related to this Settlement Agreement.

60. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than Respondent, Respondent shall use its best efforts to obtain all necessary access agreements within 30 days after EPA approves any work plan that necessitates such access, or as otherwise specified in writing by the EPA Project Coordinator. Respondent shall immediately notify EPA if after using its best efforts it is unable to obtain such agreements. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access. Respondent shall describe in writing its efforts to obtain access. If Respondent cannot obtain access agreements, EPA may either (i) obtain access for Respondent or assist Respondent in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as EPA deems appropriate; (ii) perform those tasks or activities with EPA contractors; or (iii) terminate the Settlement Agreement. Respondent shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access, in accordance with the procedures in Section XVIII (Payment of Response Costs). If EPA performs those tasks or activities with EPA contractors and does not terminate the Settlement Agreement, Respondent shall perform all other tasks or activities not requiring access to that property, and shall reimburse EPA for all costs incurred in performing such tasks or activities. Respondent shall integrate the results of any such tasks or activities undertaken by EPA into its plans, reports and other deliverables.

61. Notwithstanding any provision of this Settlement Agreement, EPA and the State retain all of their access authorities and rights, as well as all of their rights to require land/water use restrictions, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XIII. COMPLIANCE WITH OTHER LAWS

62. Respondent shall comply with all applicable local, state and federal laws and regulations when performing the RI/FS. No local, state, or federal permit shall be required for any portion of any action conducted entirely on-site, including studies, if the action is selected and carried out in compliance with Section 121 of CERCLA, 42 U.S.C. § 9621. Where any portion of the Work is to be conducted off-site and requires a federal

or state permit or approval, Respondent shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals. This Settlement Agreement is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

XIV. RETENTION OF RECORDS

63. During the pendency of this Settlement Agreement and for a minimum of 10 years after commencement of construction of any remedial action, Respondent shall preserve and retain all non-identical copies of documents, records, and other information (including documents, records, or other information in electronic form) now in its possession or control or which come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the Jones Plant Property or Montrose Superfund Site, regardless of any corporate retention policy to the contrary. Until 10 years after commencement of construction of any remedial action, Respondent shall also instruct its contractors and agents to preserve all documents, records, and other information of whatever kind, nature or description relating to performance of the Work.

64. At the conclusion of this document retention period, Respondent shall notify EPA at least 90 days prior to the destruction of any such documents, records or other information, and, upon request by EPA, Respondent shall deliver any such documents, records, or other information to EPA. Respondent may assert that certain documents, records, and other information are privileged under the attorney-client privilege or any other privilege recognized by federal law. If Respondent asserts such a privilege, it shall provide EPA with the following: 1) the title of the document, record, or other information; 2) the date of the document, record, or other information; 3) the name and title of the author of the document, record, or other information; 4) the name and title of each addressee and recipient; 5) a description of the subject of the document, record, or other information; and 6) the privilege asserted by Respondent. However, no documents, records or other information created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged.

65. Respondent hereby certifies individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Jones Plant Property or Montrose Superfund Site since notification of potential liability by EPA or the filing of suit against it regarding the Jones Plant Property or Montrose Superfund Site and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

XV. DISPUTE RESOLUTION

66. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for

resolving disputes arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally.

67. If Respondent objects to any EPA action taken pursuant to this Settlement Agreement, including billings for Interim or Future Response Costs, it shall notify EPA in writing of its objection(s) within 15 days of such action, unless the objection(s) has/have been resolved informally. EPA and Respondent shall have 20 days from EPA's receipt of Respondent's written objection(s) to resolve the dispute (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA. Such extension may be granted orally but must be confirmed in writing.

68. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by the Parties, be incorporated into and become an enforceable part of this Settlement Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the Division Director level or higher will issue a written decision. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. Respondent's obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, Respondent shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs, and regardless of whether Respondent agrees with the decision.

XVI. STIPULATED PENALTIES

69. Respondent shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraph 70 for failure to comply with any of the requirements of this Settlement Agreement specified below unless excused under Section XVII (Force Majeure). "Compliance" by Respondent shall include completion of the Work under this Settlement Agreement or any activities contemplated under any RI/FS Work Plan or other plan approved under this Settlement Agreement identified below, in accordance with all applicable requirements of law, this Settlement Agreement, the SOW, and any plans or other documents approved by EPA pursuant to this Settlement Agreement and within the specified time schedules, including any extensions, established by and approved under this Settlement Agreement.

70. Stipulated Penalty Amounts

a. Class I Violations. The following stipulated penalties shall accrue per day for any non-compliance identified in this subparagraph:

Penalty Per Violation Per Day	Period of Noncompliance
$ 500	1st through 14th day

$ 1,000	15th day and beyond

1. Failure to submit an acceptable Data Management Plan, Field Sampling Plan ("FSP"), QAPP, or Health and Safety Plan, in accordance with Task 1.3 of the SOW and the SOW Schedule, or failure to adequately or timely modify these documents to address EPA's comments;

2. Failure to comply with the requirements regarding field work notification, lab work identification, access and oversight, and cooperation with split sampling in General Requirements 7 and 8 of the SOW;

3. Failure to follow the procedures and requirements as put forth in the approved Work Plans, quality assurance/quality control ("QA/QC") protocols, and QAPP, except for deviations that EPA approves;

4. Failure to analyze and validate field data in accordance with the SOW Schedule;

5. Failure to submit an acceptable Risk Assessment Plan in accordance with Task 2 of the SOW and the SOW Schedule;

6. Failure to submit an acceptable Groundwater Monitoring Plan in accordance with Task 4 of the SOW and the SOW Schedule, or failure to adequately or timely modify the Groundwater Monitoring Plan to address EPA's comments; or

7. Failure to comply with any provision of the Settlement Agreement or SOW not otherwise specified in this Paragraph.

b. Class II Violations. The following stipulated penalties shall accrue per day for any non-compliance identified in this subparagraph:

Penalty Per Violation Per Day	Period of Noncompliance
$ 750	1st through 14th day
$ 2,000	15th through 30th day
$ 5,000	31st day and beyond

1. Failure to submit an acceptable Remedial Investigation Work Plan in accordance with Task 1.2 of the SOW and the SOW Schedule or failure to adequately or timely modify that Work Plan to address EPA's comments;

2. Failure to adequately or timely address a deficiency in accordance with General Requirement 6 of the SOW;

3. Failure to submit an acceptable Groundwater Monitoring Report subsequent to a field monitoring event, in accordance with Task 4 of the SOW and the SOW Schedule, or failure to adequately or timely modify that Report to address EPA's comments;

4. Failure to submit an acceptable Treatability Study Report in accordance with Task 5 of the SOW and the SOW Schedule, or failure to adequately or timely modify that Report to address EPA's comments; or

5. Failure to submit an acceptable interim deliverable for remedial action objectives, alternatives to be considered, and/or screening of alternatives as required by Task 5 of the SOW and the SOW Schedule.

c. Class III Violations. The following stipulated penalties shall accrue per day for any non-compliance identified in this subparagraph:

Penalty Per Violation Per Day	Period of Noncompliance
$ 1,500	1st through 14th day
$ 5,000	15th through 30th day
$ 10,000	31st day and beyond

1. Failure to submit an acceptable risk assessment in accordance with Task 2 of the SOW and the SOW Schedule, or failure to adequately or timely modify the risk assessment to address EPA's comments;

2. Failure to adequately or timely comply with a Stop Work Order in accordance with General Requirement 6 of the SOW;

3. Failure to retain documents in accordance with Section XIV;

4. Failure to submit an acceptable RI Report in accordance with Task 3 of the SOW and the SOW Schedule or failure to adequately or timely modify the RI to address EPA's comments;

5. Failure to submit an acceptable FS in accordance with Task 5 of the SOW and the SOW Schedule, if EPA has directed Jones to produce an independent FS;

6. Failure to produce an acceptable project schedule in accordance with General Requirement 4 of the SOW; or

7. Failure to fully participate and cooperate with Montrose and EPA as required by Paragraph 41.

d. Per Occurrence Violations. The following penalties shall apply for each occurrence of non-compliance identified in this subparagraph:

1. Failure to provide EPA prior notice of initiation of field work as required by Paragraph 56: $5,000.

2. Failure to provide EPA notice of past or present field work or data acquisition activities as required by Paragraphs 56 or 57: $20,000.

3. Failure to provide data and information to EPA as required by Paragraphs 56 or 57: $100,000. Additional penalties shall accrue for each continued day of non-compliance in accordance with subparagraph c, above (Class III violation).

4. Offsite shipment of Waste Materials in violation of Paragraph 44: $50,000. This penalty shall apply in addition to any other applicable civil or criminal penalty.

5. Failure to adequately or completely comply with a Stop Work Order as required by General Requirement 6 of the SOW: $20,000. Additional penalties shall accrue for each continued day of noncompliance as provided in subparagraph c, above.

71. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 88 of Section XX (Reservation of Rights by EPA) due to lack of adequate performance by Respondent as determined by EPA, Respondent shall be liable for a stipulated penalty in the amount of $250,000.

72. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs, and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (1) with respect to a deficient submission under Section X (EPA Approval of Plans and Other Submissions), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondent of any deficiency; and (2) with respect to a decision by the EPA Management Official designated in Paragraph 68 of Section XV (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA Management Official issues a final decision regarding such dispute. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

73. Following EPA's determination that Respondent has failed to comply with a requirement of this Settlement Agreement, EPA may give Respondent written notification of the same and describe the noncompliance. EPA may send Respondent a written demand for the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondent of a violation.

74. All penalties accruing under this Section shall be due and payable to EPA within 30 days of Respondent's receipt from EPA of a demand for payment of the penalties, unless Respondent invokes the dispute resolution procedures in accordance with Section XV (Dispute Resolution). All payments to EPA under this Section may be transmitted electronically or by check.

a. Checks should be made payable to "EPA Hazardous Substances Superfund," shall indicate that the payment is for stipulated penalties, and shall reference the EPA Region and Site/Spill ID Number 09-26, the EPA Docket Number 2008-23, and the name and address of the party(ies) making payment. Copies of check(s) paid pursuant to this Section, and any accompanying transmittal letter(s) shall be sent to the EPA Project Coordinators designated in Paragraph 34. Checks shall be sent to the following address:

US Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

b. If payment is to be made electronically, use the following address, clearly identifying the site (Montrose Superfund Site, # 09-26):

Federal Reserve Bank of New York
ABA = 02103004
Account = 68010727
33 Liberty Street
New York, NY 10045

Field tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency."

At the time of electronic payment, Respondent shall send notice that payment has been made to the EPA Project Coordinators designated in Paragraph 34.

75. The payment of penalties shall not alter in any way Respondent's obligation to complete performance of the Work required under this Settlement Agreement.

76. Penalties shall continue to accrue as provided in Paragraph 72 during any dispute resolution period, but need not be paid until 15 days after the dispute is resolved by agreement or by receipt of EPA's decision.

77. If Respondent fails to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. Respondent shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 74.

78. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA, 42 U.S.C. § 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to Section 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided herein, except in the case of willful violation of this Settlement Agreement or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XX (Reservation of Rights by EPA), Paragraph 88. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

XVII. FORCE MAJEURE

79. Respondent agrees to perform all requirements of this Settlement Agreement within the time limits established under this Settlement Agreement, unless the performance is delayed by a *force majeure*. For purposes of this Settlement Agreement, *force majeure* is defined as any event arising from causes beyond the control of Respondent or of any entity controlled by Respondent, including but not limited to its contractors and subcontractors, which delays or prevents performance of any obligation under this Settlement Agreement despite Respondent's best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

80. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, Respondent shall notify EPA orally within 72 hours of when Respondent first knew that the event might cause a delay. Within 7 days thereafter, Respondent shall provide to EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondent's rationale for attributing such delay to a *force majeure* event if it intends to assert such a claim; and a statement as to whether, in the opinion of Respondent, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the

above requirements shall preclude Respondent from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

81. If EPA agrees that the delay or anticipated delay is attributable to *a force majeure* event, the time for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify Respondent in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify Respondent in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XVIII. PAYMENT OF RESPONSE COSTS

82. Payments of Interim and Future Response Costs.

a. Respondent shall pay EPA all Interim and Future Response Costs not inconsistent with the NCP. On a periodic basis, EPA will send Respondent a bill requiring payment that includes a cost summary, which includes direct and indirect costs incurred by EPA and its contractors. EPA intends to send such a bill on an annual basis. Respondent shall make all payments within 30 days of receipt of each bill requiring payment, except as otherwise provided in Paragraph 83 of this Settlement Agreement. Respondent shall make all payments required by this Paragraph by certified or cashier's check(s) or by electronic transmittal.

b. Checks should be made payable to "EPA Hazardous Substances Superfund" and shall reference the EPA Region and Site/Spill ID Number 09-26, the EPA Docket Number 2008-23, and the name and address of the party(ies) making payment. Checks shall be sent to the following address:

US Environmental Protection Agency
Superfund Payments
Cincinnati Finance Center
PO Box 979076
St. Louis, MO 63197-9000

c. If payment is to be made electronically, use the following address, clearly identifying the site (Montrose Superfund Site, # 09-26):

Federal Reserve Bank of New York
ABA = 02103004
Account = 68010727
33 Liberty Street
New York, NY 10045

Field tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency."

d. At the time of payment, Respondent shall send notice that payment has been made to the EPA Project Coordinators designated in Paragraph 34.

e. The total amount to be paid by Respondent pursuant to Subparagraph 82.a. shall be deposited in the Montrose Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Montrose Superfund Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

83. If Respondent does not pay Interim and/or Future Response Costs within 30 days of Respondent's receipt of a bill, Respondent shall pay Interest on the unpaid balance of Interim and Future Response Costs. The Interest on unpaid Interim and/or Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. If EPA receives a partial payment, Interest shall accrue on any unpaid balance. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondent's failure to make timely payments under this Section, including but not limited to, payments of stipulated penalties pursuant to Section XVI. Respondent shall make all payments required by this Paragraph in the manner described in Paragraph 82.

84. Respondent may contest payment of any Interim or Future Response Costs under Paragraph 82 if it determines that EPA has made an accounting error or if it believes EPA incurred excess costs as a direct result of an EPA action that was inconsistent with the NCP. Such objection shall be made in writing within 30 days of receipt of the bill and must be sent to the EPA Project Coordinator. Any such objection shall specifically identify the contested Interim and/or Future Response Costs and the basis for objection. In the event of an objection, Respondent shall within the 30 day period pay all uncontested Interim and Future Response Costs to EPA in the manner described in Paragraph 82. Simultaneously, Respondent shall establish an interest-bearing escrow account in a federally-insured bank duly chartered in the State of California and remit to that escrow account funds equivalent to the amount of the contested Interim or Future Response Costs. Respondent shall send to the EPA Project Coordinator a copy of the transmittal letter and check paying the uncontested Interim and/or Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, Respondent shall initiate the Dispute Resolution procedures in Section XV (Dispute Resolution). If EPA prevails in the dispute, within 5 days of the resolution of the dispute, Respondent shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 82. If Respondent prevails concerning any aspect of the contested costs, Respondent shall pay

that portion of the costs (plus associated accrued interest) for which it did not prevail to EPA in the manner described in Paragraph 82. Respondent shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XV (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondent's obligation to reimburse EPA for its Interim and/or Future Response Costs.

XIX. COVENANT NOT TO SUE BY EPA

85. In consideration of the actions that will be performed and the payments that will be made by Respondent under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take administrative action against Respondent pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work and Interim and Future Response Costs. This covenant not to sue shall take effect upon the Effective Date and is conditioned upon the complete and satisfactory performance by Respondent of all obligations under this Settlement Agreement, including, but not limited to, payment of Interim and Future Response Costs pursuant to Section XVIII. This covenant not to sue extends only to Respondent and does not extend to any other person.

XX. RESERVATIONS OF RIGHTS BY EPA

86. Except as specifically provided in this Settlement Agreement, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Jones Plant Property or Montrose Superfund Site. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondent in the future to perform additional activities pursuant to CERCLA or any other applicable law.

87. The covenant not to sue set forth in Section XIX above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against Respondent with respect to all other matters, including, but not limited to:

a. claims based on a failure by Respondent to meet a requirement of this Settlement Agreement;

b. liability for costs not included within the definitions of Interim or Future Response Costs;

c. liability for performance of response action other than the Work;

d. criminal liability;

e. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

f. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Jones Plant Property or Montrose Superfund Site; and

g. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Jones Plant Property or Montrose Superfund Site.

88. Work Takeover. In the event EPA determines that Respondent has ceased implementation of any portion of the Work, is seriously or repeatedly deficient or late in its performance of the Work, or is implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. Respondent may invoke the procedures set forth in Section XV (Dispute Resolution) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Costs incurred by EPA in performing the Work pursuant to this Paragraph shall be considered Future Response Costs that Respondent shall pay pursuant to Section XVIII (Payment of Response Costs). Notwithstanding any other provision of this Settlement Agreement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XXI. COVENANT NOT TO SUE BY RESPONDENT

89. Respondent covenants not to sue and agrees not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Interim or Future Response Costs, or this Settlement Agreement, including, but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of the Work or arising out of the response actions for which the Future Response Costs have or will be incurred, including any claim under the United States Constitution, the California Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Work or payment of Interim or Future Response Costs.

90. These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraphs 87 (b), (c), and (e) - (g), but only to the extent that Respondent's claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

91. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

XXII. OTHER CLAIMS

92. By issuance of this Settlement Agreement, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondent.

93. Except as expressly provided in Section XIX (Covenant Not to Sue by EPA), nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against Respondent or any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

94. No action or decision by EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXIII. CONTRIBUTION

95. The Parties agree that Respondent is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work and Interim and Future Response Costs. Except as provided in Section XXI (Covenant Not to Sue by Respondent), nothing in this Settlement Agreement precludes the United States or Respondent from asserting any claims, causes of action, or demands against any person not parties to this Settlement Agreement for indemnification, contribution, or cost recovery.

a. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C.§ 9613(f)(2), and that Respondent is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), for "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work and Interim and Future Response Costs.

b. The Parties agree that this Settlement Agreement constitutes an administrative settlement for purposes of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B), pursuant to which Respondent has, as of the Effective Date, resolved its liability to the United States for the Work and Interim and Future Response Costs.

c. Nothing in this Settlement Agreement precludes the United States or Respondent from asserting any claims, causes of action, or demands for indemnification, contribution, or cost recovery against any persons not parties to this Settlement Agreement. Nothing herein diminishes the right of the United States, pursuant to Sections 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

XXIV. INDEMNIFICATION

96. Respondent shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action arising from, or on account of negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, or subcontractors, in carrying out actions pursuant to this Settlement Agreement. In addition, Respondent agrees to pay the United States all costs incurred by the United States, including but not limited to attorneys fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors and any persons acting on their behalf or under their control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of Respondent in carrying out activities pursuant to this Settlement Agreement. Neither Respondent nor any such contractor shall be considered an agent of the United States.

97. The United States shall give Respondent notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondent prior to settling such claim.

98. Respondent waives all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between Respondent and any person for performance of Work on or relating to the Jones Plant Property or Montrose Superfund Site. In addition, Respondent shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between Respondent and any person for performance of Work on or relating to the Jones Plant Property or Montrose Superfund Site.

XXV. INSURANCE

99. At least 10 days prior to commencing any On-Site Work under this Settlement Agreement, Respondent shall secure, and shall maintain for the duration of this Settlement Agreement, comprehensive general liability insurance and automobile insurance with limits of one million dollars, combined single limit, naming the EPA as an additional insured. Within the same period, Respondent shall provide EPA with certificates of such insurance and a copy of each insurance policy. Respondent shall submit such certificates and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of the Settlement Agreement, Respondent shall satisfy, or shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondent in furtherance of this Settlement Agreement. If Respondent demonstrates by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then Respondent need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXVII. INTEGRATION/APPENDICES

100. This Settlement Agreement and its appendices and any deliverables, technical memoranda, specifications, schedules, documents, plans, reports (other than progress reports), etc. that will be developed pursuant to this Settlement Agreement and become incorporated into and enforceable under this Settlement Agreement constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement:

"Appendix A" is the SOW.

"Appendix B" is the map of the Jones Plant Property and Montrose Superfund Site.

XXVIII. ADMINISTRATIVE RECORD

101. EPA will determine the contents of the administrative record file for selection of the remedial action. Respondent shall submit to EPA documents developed during the course of the RI/FS upon which selection of the response action may be based. Upon request of EPA, Respondent shall provide copies of plans, task memoranda for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports and other reports. Upon request of EPA, Respondent shall additionally submit any previous studies conducted under state, local or other federal authorities relating to selection of the response action, and all communications between Respondent and state, local or other federal authorities concerning selection of the response action.

At EPA's discretion, Respondent shall establish a community information repository at or near the Jones Plant Property, to house one copy of the administrative record.

XXIX. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

102. This Settlement Agreement shall be effective upon signature by the Regional Administrator or his/her delegate.

103. This Settlement Agreement may be amended by mutual agreement of EPA and Respondent. Amendments shall be in writing and shall be effective when signed by EPA. EPA Project Coordinators do not have the authority to sign amendments to the Settlement Agreement.

104. No informal advice, guidance, suggestion, or comment by the EPA Project Coordinator or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by Respondent shall relieve Respondent of its obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

XXX. NOTICE OF COMPLETION OF WORK

105. When EPA determines that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including but not limited to payment of Interim and Future Response Costs and record retention, EPA will provide written notice to Respondent. If EPA determines that any such Work has not been completed in accordance with this Settlement Agreement, EPA will notify Respondent, provide a list of the deficiencies, and require that Respondent modify the RI/FS Work Plan if appropriate in order to correct such deficiencies, in accordance with Paragraph 43 (Modification of the Plans). Failure by Respondent to implement the approved modified RI/FS Work Plan shall be a violation of this Settlement Agreement.

Agreed this 4 day of September, 2008.

For Respondent JCI Jones Chemicals, Inc.

By: Timothy J Haffney

Title: Executive Vice President

It is so ORDERED AND AGREED this 24th day of September, 2008.

BY: _____ DATE: Sept. 24th, 2008
Michael Montgomery
Assistant Director, Superfund Division
Region IX
U.S. Environmental Protection Agency

EFFECTIVE DATE: SEPTEMBER 24, 2008

In the Matter of:
Montrose Chemical Corp.

JCI Jones Chemicals, Inc., Respondent

Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study

U.S. EPA Region IX CERCLA Docket No. 2008-23

Appendix A: Statement of Work

Contents

Context and Purpose

This Statement of Work ("SOW") is an attachment to, and incorporated by reference into, Administrative Settlement Agreement CERCLA Docket No. 2008-23 ("Settlement Agreement"), entered into by the United States Environmental Protection Agency ("EPA") and JCI Jones Chemicals, Inc. ("Jones"). The purpose of this SOW is to further define and govern the Work that Jones shall perform pursuant to the Settlement Agreement. This SOW supplements and is dependent on the Settlement Agreement, and nothing in this SOW shall supersede the provisions of the Settlement Agreement.

Article IX of the Settlement Agreement requires Jones to perform a remedial investigation ("RI") for the Jones Plant Property and any nearby areas where contamination has come to be located as a result of operations at the Jones plant. The Settlement Agreement further requires Jones to participate and cooperate in ongoing feasibility studies ("FSs") that Montrose Chemical Corporation of California ("Montrose") is performing for the Montrose Chemical Corporation Superfund Site ("Montrose Superfund Site"). Accordingly, Jones must timely provide to Montrose all data that Jones collects and all analysis that Jones performs in the course of the RI. As set forth in Paragraph 42 of the Settlement Agreement, EPA may require Jones to prepare either a supplement to the FS report(s) produced by Montrose or an independent and stand-alone FS for the Jones Plant Property and nearby areas at which contaminants have come to be located as a result of Jones' operations at the Jones Plant Property. This SOW sets forth requirements that apply to the RI that Jones will perform, as well as requirements that will apply to any FS work that EPA may require Jones to perform. The context of the Work is briefly described below.

The Jones Plant Property lies within the boundary of a larger property originally owned by Stauffer Chemical Corporation ("Stauffer"). The former Montrose technical-grade dichlorodiphenyl-trichloroethane ("DDT") manufacturing plant lay in the northern and central portions of the Stauffer property. The Jones Plant Property lies in the southern portion, and comprises the balance of the original Stauffer property. Both Stauffer Chemical, and subsequently Jones, operated on the Jones Plant Property.

The former Montrose plant has released hazardous substances, including but not limited to DDT, chlorobenzene, parachlorobenzene sulfonic acid ("pCBSA"), and chloroform into the environment. Contamination from the former Montrose plant has been found in surface soils, deep soils, groundwater, storm drains, surface water drainages, residential soils, the Los Angeles Harbor, and the Pacific Ocean. In 1999, EPA selected a remedial action for groundwater at the Montrose Superfund Site and the adjacent Del Amo Superfund Site. Montrose is conducting extensive FSs for dense non-aqueous phase liquids ("DNAPL") and soils at and near the Montrose Plant Property.

The Jones plant also released hazardous substances into the environment at the Montrose Superfund Site. Jones may have released different contaminants from those released by

Montrose. Releases from the Jones plant have been only partially investigated. However, soil data reveal the presence of chlorinated solvents, notably trichloroethylene ("TCE") and perchloroethylene ("PCE"), in soils, soil gas, and groundwater at the Jones Plant Property, as well as in downgradient groundwater. DDT and benzene hexachloride ("BHC") have also been found in surface soils at the Jones Plant Property.

As described above, this SOW provides for Jones to complete an RI, and as determined necessary by EPA, to develop, screen and evaluate remedial alternatives for addressing contamination from the Jones Plant Property, in accordance with the National Contingency Plan ("NCP").

Because of the immediate proximity and overlap of the operations of Jones, Montrose, and Stauffer, EPA plans to ensure that remedial actions at the Montrose Plant Property and the Jones Plant Property are functionally and operationally consistent.

Terms and Definitions

Unless specifically stated otherwise, terms used in the Settlement Agreement have the same meaning when used in this SOW.

Unless specifically stated otherwise, the terms "in writing" and "written notice" shall include communications by letter, email, or facsimile.

GENERAL REQUIREMENTS

1 Meetings

Jones and EPA shall hold regular meetings to communicate, resolve issues, monitor and ensure progress, and allow EPA to oversee the Work. Meetings will be held at times and locations that are mutually agreeable to EPA and Jones. The frequency of meetings may vary depending on the technical or administrative issues relating to the ongoing Work at the time. Meetings may be held in person or by conference telephone call per the mutual agreement of EPA and Jones. Jones may request EPA to convene technical and/or administrative progress meetings.

1.1 Technical Meetings

Jones and EPA shall attend and participate in technical meetings as scheduled and convened by EPA. Consultants who are working for Jones on technical matters to be addressed at the meeting shall attend, unless EPA agrees otherwise beforehand. At EPA's request, Jones shall provide to EPA pertinent interim work products, such as maps, lists, diagrams, descriptions, modeling input or output, or documents.

1.2 Administrative Progress Meetings

Jones and EPA shall attend and participate in administrative meetings as scheduled and convened by EPA. Such meetings shall be held to discuss the overall progress of the Work; to monitor, coordinate and resolve schedule concerns; and to discuss any matters related to compliance with, and enforcement of, the Settlement Agreement. Technical personnel such as consultants may or may not be present, depending on the meeting agenda.

Technical and administrative meetings may be held concurrently.

2 Modifications to Submissions

As provided in Section X of the Settlement Agreement, EPA has approval authority over all documents and other submissions by Jones under this SOW.

Jones shall provide EPA with the data, analysis, and consultation necessary for EPA to review all submissions under this SOW. In addition, Jones shall verify the statements and conclusions in the submissions.

As described in Section X of the Settlement Agreement, EPA will respond in writing after reviewing each submission by Jones. Jones may confer with EPA's Remedial Project Manager(s) to discuss unclear conditions or directions, or those with which Jones disagrees. Jones may (and shall, at EPA's request) issue a document that describes how Jones has addressed a condition or direction and that states any other relevant background information. However, issuing such a document does not relieve Jones of its responsibility to address the condition or direction. Jones shall not deem any condition or direction to have been addressed to EPA's satisfaction until EPA so-states in writing, or until EPA withdraws the condition or direction.

The provisions of Section 2 apply to all of Jones' submissions to EPA, including those required under Section 3.

3 Additional Work Provision

Events and circumstances not foreseen by this SOW may arise at the Site. If EPA determines that additional work not specified in this SOW is necessary in order for the RI/FS work under this SOW to comport with the ROD, CERCLA, the NCP, EPA guidance and policy, or Applicable or Relevant and Appropriate Requirements ("ARARs"), EPA may, in writing, direct Jones to perform additional work.[1] Jones shall perform that work and produce to EPA's satisfaction any additional planning documents that may be needed in order to complete the work.

[1] Throughout this SOW, the phrase "EPA may" shall mean that EPA may, in its discretion, take the referenced action.

4 Remedial Investigation Work Plan and Project Schedule

Within sixty calendar days of the effective date of the Agreement, Jones shall submit to EPA a draft of the Remedial Investigation Work Plan ("RI Work Plan") required by Task 1.2 of this SOW, and shall perform Task 1.1 sufficiently to complete the RI Work Plan. The RI Work Plan shall include a project schedule ("Schedule") that specifies the completion dates and time frames for the Work to be completed under this SOW. The requirements for the Schedule are described further in subsequent paragraphs of this section.

Jones shall revise the draft RI Work Plan and Schedule in accordance with EPA comments, if any, and submit a final RI Work Plan within twenty-one calendar days of receipt of EPA's comments. At its discretion, EPA then may disapprove the RI Work Plan, require that Jones make additional modifications to the RI Work Plan, or approve the RI Work Plan as final. Failure on the part of Jones to submit an adequate RI Work Plan in accordance with EPA comments such that EPA disapproves the RI Work Plan shall be considered equivalent to the violation described in Paragraph 70(b)(1) of the Agreement and shall be submitted to the stipulated penalties set forth therein.

Jones shall begin work pursuant to the approved RI Work Plan and Schedule immediately upon EPA's approval of the RI Work Plan and Schedule. The RI Work Plan and Schedule shall take effect upon EPA's approval and shall be enforceable under the Settlement Agreement.

Jones shall prepare the Schedule using Microsoft Project or a comparable project management software program. The Schedule shall track and evaluate tasks, task durations, start and completion dates, designations of responsibility, logical interdependencies among the tasks, and the implications of those interdependencies when changes are made to task durations in the Schedule. EPA's responsibilities in the Schedule (e.g., reviewing and approving deliverables) shall be considered as estimates only and shall not be treated as deadlines. If EPA does not complete a given responsibility by the estimated completion date, the completion dates in the Schedule for logically dependent tasks shall be extended accordingly.

Jones may seek an extension of time, or a delay in the start date, for any SOW task. To do so, Jones shall submit, in writing, a request and justification for the request to the EPA Remedial Project Manager. EPA may (a) approve the request, (b) approve an extension that EPA determines is appropriate, or (c) deny the request. EPA will provide its response in writing. If EPA approves Jones' request, Jones shall modify deadlines accordingly for that task and for logically dependent tasks in the Schedule. EPA may grant extensions or delays to a deadline either before or after the deadline expires. EPA retains authority to amend the Schedule and to approve amended versions of the Schedule.

The original Schedule need not address Task 5. If EPA directs Jones to conduct an FS pursuant to Paragraph 42 of the Settlement Agreement, Jones shall amend the Schedule to provide for completion of Task 5.

Jones shall update the Schedule when EPA approves an extension or when EPA does not complete a responsibility by the estimated completion date. Jones shall provide updated versions of the Schedule to EPA. The most recently updated Schedule reflecting any changes approved by EPA is the enforceable Schedule under the Settlement Agreement, and references to the "Schedule" in this SOW shall mean the currently enforceable Schedule.

5 Data Management Plan

Jones shall develop and submit to EPA a Data Management Plan to address all data acquired during the RI/FS process, including historical data and new data.

The Data Management Plan shall present the methods for tracking, storing, querying, and retrieving data. The Plan shall discuss the format in which data will be available, the manner of updating the data as new data is acquired, and the means of maintaining data so that modified evaluations can be performed. The Plan shall also identify the software to be used, data security, data entry control, transcription error control protocols, minimum data requirements, data format, and backup data management. The Plan shall address electronic as well as paper data and information. Jones shall modify the Plan in accordance with EPA comments, if any. Jones shall amend the Plan as necessary to address new types of data as they become available.

Jones shall manage all data in accordance with the Data Management Plan as approved by EPA.

Jones may need to transfer its data to databases that Montrose is using for its FS(s). If so, Jones shall maintain the appropriate fields, formats, database structure, and technical compatibility necessary to transfer the data, and Jones shall identify these methods and issues in the Data Mánagement Plan.

6 Notice of Deficiencies and Stop Work Orders

If EPA determines that Jones is conducting Work in a manner that:

- Is not in accordance with the ROD, CERCLA, or approved plans under this SOW;
- May result in data that is unusable or insufficient for the purposes of the RI/FS;
- May result in data or findings that are biased or not objective;
- May result in a release of hazardous substances to the environment;
- May result in making cleanup of hazardous substance contamination more costly, difficult, or time consuming;
- May result in the destruction of or damage to evidence of a release of hazardous substances;
- May threaten the effectiveness or protectiveness of the remedial action;
- Is not safe for workers or the public;
- May result in serious concerns among the public such that more time is necessary for EPA to manage community relations issues;

- May result in property damage or violate property rights; or
- May violate laws or regulations of the United States, the State of California, or local governmental entities, then

EPA may issue a written Notice of Deficiencies to Jones. Jones shall meet with EPA as soon as possible to discuss the deficiencies. EPA may withdraw its identification of some or all of the deficiencies. Jones shall correct all remaining identified deficiencies and demonstrate those corrections to EPA.

EPA also may issue a Stop Work Order if EPA determines that Work is unacceptable for any of the reasons listed above. Jones shall immediately comply with the Stop Work Order in a manner that assures public and worker safety, in addition to correcting deficiencies in accordance with the preceding paragraph. Jones shall not resume work on the stopped tasks without EPA approval.

This provision does not relieve Jones of its responsibility to comply with applicable laws and regulations.

7 Field Work Provisions

Jones shall not initiate field work on any particular subtask or task in this SOW without written notice by EPA to proceed. Jones shall perform all field work in accordance with applicable EPA-approved FSPs, QAPPs, Work Plans, and the Schedule, unless otherwise approved by EPA.

Jones shall make all field activities and documentation of field activities available for oversight and review by EPA, its officers, representatives, contractors, and assigns, at all times. These activities and documentation may include, but are not limited to, preparatory activities and mobilization, demobilization activities, field reconnaissance, safety and "tailgate" meetings, treatment and disposal activities, daily and long-term equipment calibration and setup, borehole and well bore drilling, well development, disposal of investigation-derived-waste, soil and soil gas sampling, sample collection, boring installation, field laboratory work, preparation and updating of field logs, chain-of-custody, sample identification and documentation, sample handling, sample packaging and shipment, measurements, observations, equipment to be used, analytical data, mobile laboratory setup or operation, hazardous waste manifests, protection of public safety, and any and all activities related to determining compliance with this SOW, the ROD, the approved plans, and applicable regulation. In conducting field activities, Jones shall cooperate with EPA, its officers, representatives, contractors, and assigns. Upon receiving notice from EPA that it plans to collect split samples or confirmation samples, Jones shall assist as requested with EPA's collection of such samples; including providing access to the sampling apparatus, obtaining the sample, and transferring the sample to EPA under appropriate chain-of-custody.

Unless otherwise approved by EPA, Jones shall provide EPA with at least seven days' notice before initiating field work so that EPA can ensure that a field oversight representative will be available. EPA may require Jones to delay field work to make field oversight available, to collect split samples, or for public outreach. Jones shall make its best efforts to provide EPA

with the field work schedule for as many days in advance as is available, and to inform EPA when down time in the field is expected.

Jones shall:

- Ensure that all members of the field team read the approved Health and Safety Plan and sign a document declaring that they have read it;
- Ensure that all members of the field team that will collect samples or direct well installation sign a document declaring that they have read any approved work plans, FSPs, Health and Safety Plan, and any other field planning documents related to the effort;
- Provide the aforementioned signed documents to EPA upon request; and
- Make copies of all approved work plan documents, the FSP, the QAPP, and the Health and Safety Plan available in the field and ensure that the person in charge of the field effort is personally responsible for their continued presence and use at the Site.

8 Analysis of Data Provisions

Jones shall ensure that all laboratory analysis of the environmental sampling data required to fulfill the Work is performed by a laboratory approved by EPA. If the QAPP designates a particular laboratory, then EPA's approval of the QAPP shall constitute EPA's approval of the laboratory. However, if the laboratory changes and/or if the QAPP does not designate a laboratory, then Jones shall obtain EPA's approval before using a proposed laboratory.

At EPA's request, Jones shall provide to EPA any laboratory standard procedures, method detection limit studies, and laboratory documentation pertaining to analyses conducted or to be conducted in response to this SOW. Jones shall arrange for and oversee the laboratory's performance of site-specific method detection limit studies and other method verification studies as determined necessary to complete the Work. Such studies shall generally not be required for unmodified standard EPA procedures, but may be necessary for modified or special procedures.

Jones shall:

- Perform data validation of the laboratory performance and make data validation reports available for EPA review;
- Ensure that sufficient and appropriate laboratory documentation is maintained, per the approved QAPP, to allow for EPA's complete and independent validation of data;
- Make such documentation available to EPA, upon EPA's request;
- Provide for EPA to speak with the chemist of the laboratory to answer questions regarding data or data validation, upon request by EPA; and
- Analyze laboratory performance evaluation ("PE") samples provided by EPA and provide any laboratory results promptly to EPA.

9 Combining Deliverables

If Jones finds that it would be more efficient to submit some of the deliverables identified in this SOW under a single cover (one document) rather than separately, Jones may ask EPA for written permission to do so. EPA's approval of combined deliverables shall not relieve Jones from the obligation to provide all information and documentation required by EPA. EPA retains sole discretionary authority to approve or disapprove any modifications to the contents of each deliverable, or changes to the schedules for activities and submission of deliverables proposed by Jones.

10 Compliance with Applicable Laws, Regulations, and Guidance

All work and work products that Jones undertakes pursuant to this SOW must comply with the NCP Part 300, the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (OSWER Directive # 9355.3-01, October 1988 or subsequently issued guidance), and any other applicable EPA guidance and policy.

STATEMENT OF WORK TASKS

1 Remedial Investigation Planning and Field Work

This task governs Jones' planning for RI activities, field work, and data analysis. Such planning is necessary to ensure that reliable and usable data is collected and to enable EPA to oversee planning efforts.

The parties acknowledge that prior to executing the Settlement Agreement, Jones provided to EPA the following documents:

- *Draft Quality Assurance Project Plan*, September 20, 2005, by LFR Levine Fricke on behalf of Jones;
- *Draft Supplemental Dense Nonaqueous Phase Liquid Reconnaissance Field Sampling Plan*, October 15, 2004, by LFR Levine Fricke on behalf of Jones and *Revised Draft Supplemental Dense Nonaqueous Phase Liquid Reconnaissance Field Sampling Plan,* December 13, 2004 by LFR Levine Fricke on behalf of Jones;
- *Draft Soil-Gas Survey Workplan*, September 30, 2004, by LFR Levine Fricke on behalf of Jones; and
- Health and Safety Plan for Site Investigation Activities at JCI Jones Chemicals, Inc., December 3, 2004 by LFR Levine Fricke on behalf of Jones.

EPA has already provided comments on these documents to Jones. Jones must carry out these plans in accordance with the Settlement Agreement and the SOW.

1.1 Operational and Contaminant Release History

Jones shall research in detail the operational history of the Jones Plant Property and take that history into account in planning for the acquisition of additional field data. Jones shall present its research to EPA in the RI Report required under Task 3 of this SOW, and shall include, at a minimum, descriptions of the following elements:

- The functional operations at the Jones Plant Property, including what product(s) or intermediate(s) was (were) manufactured, produced, synthesized, treated, modified, or stored; what service(s) was(were) provided; and operational purposes and activities for which the property and the facilities on the property were used;
- The chemical use history and presence of chemicals and hazardous substances at the Jones Plant Property including but not limited to feedstock chemicals, raw materials, chemical intermediates, chemical products, stored chemicals, recycled or reclaimed chemicals, chemicals awaiting recycling or reuse, processing chemicals, or solvents (including but not limited to substances containing or consisting of PCE, TCE, DCE, TCA, DCA, vinyl chloride, methylene chloride; methyl ethyl ketone, acetone, or other ketones; benzol,

petroleum spirits, xylene, toluene, benzene, ethylbenzene, chlorobenzene, or napththalene (or any chemical isomers thereof);

- A map depicting the location(s) at the property of all former and current structures which received, held, stored, or enclosed any of the substances listed or discussed in response to the last two questions. Examples of such structures are, but are not limited to, above ground tanks, below ground tanks, open tanks, dip tanks, pipelines, pits, surface impoundments, clarifiers, cesspools, spray booths, trenches, ditches, product or waste recycling or rework units, drums, bins, shipping and commercial containers; or other receptacles, equipment or enclosures used during the operation of the facility;
- The use of proprietary or trade-name solvents and their chemical constituents;
- The waste streams at the Jones Plant Property;
- The waste and chemical handling activities and structures, including but not limited to above ground tanks, below ground tanks, dip tanks, portable or mobile tanks, pipelines and drains, pits, dry wells, evaporation ponds, wastewater treatment systems, surface impoundments, trenches, ditches, clarifiers, cesspools, product or waste recycling or rework units; other receptacles, equipment or enclosures used during the operation of the facility; drums, sumps, spray booths, leach fields, sewer inlets, storm drain inlets, waste piles, bins, waste piles and landfills; and
- The known releases of hazardous substances to the environment that may have occurred at the Jones Plant Property.

1.2 Remedial Investigation Work Plan

Jones shall provide a Remedial Investigation Work Plan ("RI Work Plan") for EPA review, and revise the RI Work Plan in accordance with EPA comments and this SOW. The RI Work Plan shall provide the information necessary for EPA to assess the actions that will be taken to support the RI.

The types of information to be addressed by the RI Work Plan shall include:

- Context of the work to be performed;
- Investigation objectives and issues;
- Approach and procedures;
- Anticipated data use and limitations;
- Planned interpretation of data;
- A discussion of existing data and data gaps;
- The identification and rationale for the number and locations of sampling points and monitoring wells;
- Identification of the property owners at the locations of any proposed off-property

monitoring wells and any anticipated issues with short- and long-term property access;

- A complete description, including diagrams, of proposed borings and monitoring well construction details and specifications; drilling method and all drilling equipment; all pertinent construction materials; measurements of borehole, casing, and annular space; depths of screened and blank casing; proposed pumps, transducers, and any other dedicated or temporary down-hole equipment; methods to be used to determine depths and elevations; wellhead and well vault construction detail and specifications; and any other related details. Construction diagrams shall be provided relative to the anticipated stratigraphy to be encountered;
- A complete description of proposed well development procedures; and
- A complete description of treatment and/or disposal of investigation-derived waste including but not limited to drilling spoils or muds, and any other potentially contaminated media.

Investigation Areas of Focus. The RI Work Plan shall require Jones to use qualified field personnel for all Work. Field personnel are subject to EPA approval, as provided in Section VIII of the Settlement Agreement.

At a minimum, the RI Work Plan will address the following primary areas:

- **Contaminant Vapor**. The RI Work Plan shall provide for characterization of the nature and extent of soil vapor in soils within the vadose at the Jones Plant Property and adjacent properties to the extent that soil vapor from the Jones Plant Property has or may have migrated there. Such characterization shall be sufficient to:
  - Evaluate potential health risks that may accrue to exposed individuals at the ground surface as a result of vapor migration from subsurface soils, including vapor intrusion into buildings; in accordance with EPA risk assessment procedures;
  - Assess the potential for vapor entrapment under existing ground cover or potentially a cap installed for remedial purposes;
  - Characterize the distribution of contaminant vapors as a means to assess contaminant source areas and focus the investigation of soil, NAPL, and groundwater also being performed under this SOW; such characterization should be designed to facilitate the siting of soil, DNAPL characterization borings, and groundwater wells; and to provide an second line of evidence to corroborate results from other sampling modes; and
  - Evaluate the fate and transport of soil vapor.
- **Non-Aqueous Phase Liquids (NAPL)**. The RI Work Plan shall provide for characterization of the presence of NAPL at the Jones Plant Property as a result of previous releases of contaminants. The primary, but not only, contaminants which may be present as NAPL are TCE and PCE. As part of this work Jones shall also sample for chlorobenzene, a primary contaminant of the former Montrose plant operations.[2] NAPL presence and movement is

[2] If Jones finds chlorobenzene NAPL, EPA will reassess whether future responsibility for chlorobenzene investigation would fall to Jones or to Montrose.

highly heterogeneous. The work proposed in the RI Work Plan shall utilize multiple lines of evidence (such as soil gas sampling, soils, borings, screening tools, and groundwater samples) where practical and appropriate. The NAPL investigation shall be sufficient to:

- Evaluate whether NAPL is present at the Jones Plant Property and at other locations two which it may have migrated from the Jones Plant Property;
- Determine the chemical composition and physical properties of NAPL, if present;
- Reasonably define the area of NAPL occurrence both laterally and with depth;
- Assess the potential for migration of NAPL to the water table or lower water-bearing stratigraphic units and how this migration will impact the performance of the Dual-Site Operable Unit Groundwater Remedy selected by EPA in 1999;
- Obtain a general sense of the NAPL saturations that may be present within the area of NAPL occurrence, and
- Evaluate the fate and transport of NAPL.

It is recognized that determining a precise distribution of NAPL in the subsurface is usually not feasible.

- **Soils**. The RI Work Plan shall provide for characterization of soil contamination at the Jones Plant Property. Such work shall be sufficient to:
  - Assess the nature and extent of soil contamination at the Jones Plant Property and adjacent properties;
  - Evaluate exposure and health risks to current or potential future receptors as a result of contact with soils at the Jones Plant Property;
  - Corroborate findings of soil vapor sampling or NAPL borings with respect to objectives in those investigative efforts;
  - Assess any off-property migration of contaminants that may have occurred in aqueous or sorbed-phase sediments in surface drainages;
  - Provide physical soil data potentially including but not limited to soil grain size or permeability analysis, pH, moisture content, and biological indicators and inorganics, etc.; and
  - Evaluate the fate and transport of soil contamination.
- **Groundwater**. The RI Work Plan shall provide for the installation and sampling of groundwater monitoring wells, and/or temporary well points or grab samples as approved by EPA, sufficient to assess the nature and extent of groundwater contamination originating from the Jones Plant Property. This shall include characterization performed on and off the Jones Plant Property, as appropriate, based on existing groundwater data and results of soil vapor and DNAPL investigations. Of particular focus shall be:

- The nature and extent of contamination in the Upper Bellflower Aquitard ("UBA");[3]
- The nature and extent of dissolved-phase contamination in the Bellflower Sand;[4]
- Water levels under and near the Jones Plant Property; and
- Water chemistry parameters such as total dissolved solids and total suspended solids and physical parameters as may be necessary for the successful completion of the RI.

- **Aquifer Testing**. If determined necessary by EPA, Jones shall conduct aquifer testing in the vicinity of the Jones Plant Property in order to evaluate key aquifer parameters. The RI Work Plan shall include detailed planning for the collection of aquifer test data and the intended interpretation of the data.

1.3 Field Sampling Plan, Quality Assurance Project Plan, and Health and Safety Plan

Jones shall produce the following additional plans:

- An FSP shall identify and justify the data quality objectives ("DQOs") and provide the detailed sampling procedures for collecting samples that meet the DQOs. The FSP shall include sampling objectives; sample locations and frequency; justification for selection of each sample point; sampling equipment and procedures; sample handling and analysis; sample preservation, and decontamination and the justification for each. The FSP shall be written so that a field sampling team unfamiliar with the site would be able to gather the samples and field information required. The FSP shall meet applicable EPA guidances. With EPA approval, this FSP may be combined in the same document with FSP information from other tasks in this SOW that require a FSP. The FSP shall comply with all General Requirements of this SOW including requirements for Field Sampling.
- A QAPP shall describe the project objectives and organization, functional activities, QA/QC protocols that shall be used to achieve the DQOs, which shall be identified and justified in the QAPP. The QAPP shall comply with all applicable EPA guidances. With EPA approval, this QAPP may be combined in the same document with QAPP information from other tasks in this SOW that require a QAPP. The QAPP shall comply with all General Requirements of this SOW including requirements for Analysis of Data.
- A site-specific Health and Safety Plan shall provide for the data-acquisition work that specifies employee training, protective equipment, medical surveillance requirements, standard operating procedures, and a contingency plan in accordance with 40 CFR 300.150 of the NCP and 29 CFR 1910.120 1(1) and (1)(2). The Health and Safety Plan shall comply with all requirements of the Occupational Safety and Health Administration ("OSHA"). Jones shall obtain EPA acceptance of the Health and Safety Plan before beginning field

[3] This term is used in the Montrose Remedial Investigation Report; this area is alternately referred to as the "water table zone."
[4] This term is used in the Montrose Remedial Investigation Report; this area is alternately referred to as the "Middle Bellflower C Sand."

work. EPA will ensure that the basic components of the Health and Safety Plan appear appropriate and may issue comments on the Plan. However, EPA's comments on and acceptance of the Health and Safety Plan shall not constitute EPA approval of the Health and Safety protocols and other health and safety provisions of the Plan. Jones shall remain responsible for meeting all OSHA requirements, including but not limited to obtaining necessary OSHA permits and verifying training and medical monitoring requirements, for its own field staff, per applicable law and regulation.

2 Risk Assessment

Using all available and reliable data from the Jones Plant Property, Jones shall perform a Risk Assessment consistent and complying with EPA's *Risk Assessment Guidance for Superfund* ("RAGS"). Per RAGS, this risk assessment shall contain a toxicity assessment, an exposure assessment, and a risk characterization. The Risk Assessment shall evaluate cancer and non-cancer endpoints from reasonable current and future pathways of exposure to contaminants present at the Jones Plant Property. The Risk Assessment shall contain all computational worksheets and backup documentation as required by RAGS.

Before performing the full risk assessment, Jones shall provide to EPA a Risk Assessment Plan that identifies the contaminants to be included, the pathways to be considered, the exposure scenarios to be evaluated, and the types and quality of data that will be used in the Risk Assessment. Upon approval by EPA, Jones shall proceed with the Risk Assessment.

At a minimum, the following potential types of chemical exposure shall be assessed:

- Exposure to migrant soil vapors at the ground surface;
- Exposure to migrant soil vapors inside buildings (vapor intrusion); and
- Exposure to soils at the ground surface, or near enough to the surface that they could be brought to the surface under conditions of possible development.

EPA does not presently anticipate the need to perform risk calculations with respect to groundwater consumption.

Upon request, Jones shall provide EPA with interim components of the Risk Assessment to allow EPA to assess progress and make corrective comments as it may find necessary.

3 Remedial Investigation Report

Jones shall issue a Remedial Investigation Report ("RI Report") to define the nature and extent of contamination (including groundwater contamination) at the Jones Plant Property and nearby areas where contamination may have come to be located as a result of operations at the Jones plant. At a minimum, the RI Report shall include (not necessarily in this order):

- The results of the operational history research described above;
- All objectives of the investigation;

- All data derived from the data acquisition effort, including but not limited to water quality data and water levels in all applicable hydrostratigraphic units;
- All data collected prior to the Settlement Agreement upon which Jones relies in reaching the conclusions in the RI Report;
- Sufficient presentation, analysis, and organization of the data to allow for readily understanding and interpreting the data;
- Results of any evaluations or validation of data;
- Well completion and boring documentation, including:
    - Exact locations with coordinates and map relative to surrounding area;
    - Well construction and materials detail; and
    - Diagrams of well depths, casing, annular spacing, packing, screened interval;
- Any and all final sample, boring, or well locations and how these may differ from the original planning documents;
- Property ownership and property access issues and how they were addressed, including but not limited to permits and easements;
- A description of the field activities documenting actual drilling, and sampling and analysis methods and procedures and how any of these may have differed from the originally approved data acquisition planning documents as required above;
- If appropriate, a summary of any additional existing data on the contamination;
- Results of any other measurements or physical assessments (including but not limited to soil grain or permeability analysis, pH, total dissolved solids, total suspended solids, biological indicators and inorganics, etc.) collected as part of this remedial design task;
- Detailed hydrostratigraphy of the area studied;
- Groundwater flow directions and gradients (horizontal and vertical);
- Geologic logs;
- Nature and extent of dissolved and/or free-phase contamination; locations of sampling points;
- Hydrostratigraphic cross sections, if deemed appropriate by EPA;
- Groundwater elevation contours in each aquifer unit; and
- Any other information necessary to document the completion of the RI work.

4 Ongoing Monitoring

If groundwater monitoring wells are installed pursuant to this SOW, Jones shall perform routine and ongoing monitoring, including water quality sampling and gauging water levels, at a frequency approved by EPA.

4.1 Groundwater Monitoring Plan

With approval from EPA, this deliverable may be incorporated into the RI Work Plan. Jones shall submit to EPA a Groundwater Monitoring Plan that specifies:

- The overall objectives for the monitoring program;
- The rationale and objectives for sampling each well;
- The frequency of monitoring of wells needed to meet the objectives for the monitoring program;
- The Field Sample Plan and QAPP that shall apply to the monitoring.
- Well maintenance procedures for wells which require repair; and
- Well abandonment procedures for wells which EPA determines are no longer needed, are no longer usable or serviceable, or must be destroyed for such reasons as a leaky well (faulty well seal) or redevelopment by the property owner on the property on which the well is located.

4.2 Monitoring Reports

On a frequency established in the approved monitoring plan, Jones shall issue monitoring reports containing the most current and previous data from monitoring wells sampled during the period. In addition to providing the data in tabular form, the data shall be interpreted with updated analyses including, at a minimum:

- Results of all new data in an easy to use and understandable format, including any sampling or measurements and in accord with the Data Management Plan for the Remedial Design;
- Groundwater flow directions and gradients (horizontal and vertical);
- Nature and extent of dissolved and/or free product contamination;
- If new wells were installed during the reporting period and the lithologic data from these wells provides additional relevant information, then graphics shall be provided depicting:
    - locations of sampling points;
    - hydrostratigraphic cross sections; and
    - extent of contamination in each aquifer unit;

- Groundwater elevation contours in each aquifer unit; and
- Conclusions on compliance and transgression of the containment zone based on the new data.

The monitoring report shall include the water quality and water levels measured during the effort both in tabular and graphical format, modified water level hydrographs and contour maps for the various water-bearing units, and reassessments of groundwater flow and gradients.

5 Feasibility Study

Jones shall conduct a Feasibility Study only if EPA directs Jones to do so pursuant to Paragraph 42 of the Settlement Agreement. If so directed, Jones shall conduct an FS to identify, screen, analyze, and compare remedial alternatives for addressing contamination at the Jones Plant Property and nearby areas to which contaminants from the Jones Plant Property have come to be located. If EPA directs Jones to conduct an FS, Jones shall amend the Schedule to incorporate the tasks described below.

5.1 Treatability Studies

EPA may require Jones to plan, execute, and document the results of treatability studies of treatment technologies or approaches at either the laboratory or pilot scale. Such studies shall be of sufficient quality to provide data that can serve as a basis for comparing alternatives in the FS.

5.1.1 Treatability Study Work Plan

If treatability studies are required, Jones shall submit to EPA a Treatability Study Work Plan ("TSWP") before conducting the study.

The TSWP shall, at a minimum and to the extent applicable, include the following components:

- The specific objectives to be met by the treatability study with the conditions to be tested and data needs clearly identified;
- Clear identification of the data and interpretation that will be provided after the study; including measures of performance;
- A complete description with diagrams of the experimental design, its components, test equipment, specifications, test duration;
- The methodology and procedures to be followed in conducting the study;
- A description of system installation and startup;
- A discussion of the experimental system operation, maintenance procedures, and operating conditions;
- Description of any ancillary facilities required to conduct the testing;
- Identification of the methodology and procedures for data collection during testing and the

DQOs, which define the statistical accuracy, precision, and representativeness required of the data;

- Pollution control planning which outlines the process, procedures, and safeguards that shall be used to ensure contaminants or pollutants are not improperly released during testing; and
- Derived-waste management planning which outlines the procedures for managing wastes resulting from conducting the pilot testing, including procedures for transporting these wastes offsite for the purpose of storage, treatment, and/or disposal.

If testing is to be performed off-site, permitting requirements shall be addressed.

The nature of the quality-control procedures and samples will be sufficient to meet the data-quality objectives. If sampling and analysis of samples will be performed, then the TSWP shall include:

- An FSP that specifies the detailed sampling procedures for collecting samples during the test that meet the DQOs. The FSP shall include sampling objectives; sample locations and frequency; sampling equipment and procedures; sample handling and analysis; sample preservation, decontamination, and a breakdown of samples to be analyzed. The FSP shall be written so that a field sampling team unfamiliar with the site would be able to gather the samples and field information required.
- A QAPP that describes the project objectives and organization, functional activities, DQOs, and QA/QC protocols that shall be used to achieve the desired DQOs. With EPA approval, this QAPP may be combined in the same document with QAPP information from other tasks in this SOW.

5.1.2 Treatability Study Execution

Upon receiving EPA's approval of the Treatability Study Work Plan, Jones shall conduct the treatability study in accordance with the Schedule. The treatability study shall be considered "field work" that is subject to the requirements of Section 7 of this SOW.

5.1.3 Treatability Study Report

Jones shall submit to EPA a Treatability Study Report. The Report shall contain the following, at a minimum:

- A discussion of the objectives of the test and any issues that occurred relative to meeting the objectives;
- A documentary and chronological discussion of the preparation and running of the test, including a list of all vendors used; vendor reports should be attached as appendices;
- A discussion of the bases of measure and performance criteria;
- A documentation of laboratory or field activities, including a description of events that provide either context or affect the results of the testing; and the methods and procedures followed during the testing;

- The results and interpretation of the pilot testing;
- Tabular and graphical representations of the data derived during the test;
- A discussion of the remaining data gaps and any recommended further actions;
- A summary of the findings and conclusions from the test; and
- Appendices:
    - Raw data from the laboratory; and
    - Drilling/construction logs.

5.2 Feasibility Study Report

When sufficient data are available, Jones shall write the Feasibility Study Report ("FS Report") in accordance with the Schedule.

EPA shall determine the scope of the FS Report in discussion with Jones. The following non-exclusive approaches may be required[5]:

- Jones addresses NAPL and soil gas contamination at the Jones Plant Property in a separate FS, while the Montrose soils FS addresses surface soils at the Jones Plant Property;
- Jones produces a supplement FS to the Montrose FS; or
- Jones produces a single FS that is independent of the Montrose FS.

Jones shall provide to EPA draft documents discussing the following types of information in the course of preparing the FS Report. These documents shall be discussed with EPA and modified according to EPA comments, if any:

- Remedial action objectives;
- General response actions and technologies;
- Alternatives to be considered; and
- Summary of screening of remedial alternatives.

Jones shall then complete the detailed analysis of alternatives and submit the FS Report to EPA. Jones shall modify and resubmit the FS Report in accordance with EPA's comments.

[5] The option of Jones not writing an independent FS is excluded from this list because Task 5 only applies if EPA has determined that Jones must write an independent FS.

In the Matter of:
Montrose Chemical Corp.

JCI Jones Chemicals, Inc., Respondent

Administrative Settlement Agreement and Order on Consent for Remedial Investigation/Feasibility Study
U.S. EPA Region IX CERCLA Docket No. 2008-23

Appendix B: Map of Jones Plant Property and Montrose Plant Property